

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

MAR 14 2003

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of

Petition for Declaratory Ruling that	)	WC Docket No. 03-45
pulver.com's Free World Dialup	)	
is neither Telecommunications nor a	)	
Telecommunications Service	)	

**COMMENTS OF THE VON COALITION**

The Voice on the Net Coalition (the "VON Coalition") hereby submits these comments in response to the Public Notice released February 14, 2003 by the Wireline Competition Bureau in the above-captioned proceeding.<sup>2</sup> The VON Coalition supports any classification of Free World Dialup as neither telecommunications nor a telecommunications service. Such a classification would be consistent with the Communications Act of 1934, as amended (the "Act"), current Commission policy, and the national policy of encouraging development of the Internet and Internet services.

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<sup>1</sup> The VON Coalition membership is developing and offering voice products and services for use on the Internet and other Internet Protocol ("IP") networks. The VON Coalition was formed in 1996 to respond to the petition filed by America's Carriers Telecommunication Association ("ACTA"), which requested injunctive relief and a declaratory ruling that providers of IP software and hardware are telecommunications carriers subject to regulation and the access charge regime. The VON Coalition opposed the ACTA petition and has since participated in numerous Commission proceedings, including the 1998 *Universal Service Report to Congress*, its *Notice of Inquiry* regarding Section 255 disability access, the universal service proceeding involving review of carrier contribution mechanisms, and, most recently, AT&T's request for a declaratory ruling regarding phone-to-phone Internet telephony and access charges. Additionally, the VON Coalition has worked with the United States government in connection with the International Telecommunication Union, including the World Telecommunication Policy Forum on IP Telephony. Additional information regarding the VON Coalition is available on its website, <http://www.von.org>.

<sup>2</sup> Public Notice, *Pleading Cycle Established for Comments on pulver.com Petition for Declaratory Ruling*, DA 03-439 (Feb. 14, 2003).

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## Discussion

According to pulver.com, FWD is an Internet application that facilitates voice communications over the Internet. FWD and other voice over Internet protocol (“VoIP”) services hold significant promise, both domestically and internationally. As the VON Coalition has previously described, the development of the Internet and voice on the Internet (“VON”) is having a gradual but profound and beneficial impact on the United States and the world.<sup>3</sup> Use of VON is drastically reducing the cost of international communications and creating a foundation for broadband communications that have much greater capacity and functionality than is offered by the public switched telephone network.

In recognition of this promise, the Commission has declined to regulate VoIP services and, on the international stage, has consistently and repeatedly voiced its support for non-regulation. Chairman Powell, for example, recently urged attendees at the International Telecommunications Union’s Second Global Symposium for Regulators to give broadband and digital technologies a minimally regulated environment “that is nurturing and will allow them to blossom and develop into the great platform that we envision.” *Remarks of FCC Chairman Michael K. Powell, ITU 2<sup>nd</sup> Global Symposium for Regulators, Geneva, Switzerland (December 4, 2001)*. Referring specifically to VON telephony, Chairman Powell noted that “In the United States we have yet to choose to regulate IP telephony and are confident of that decision. We do not assume it is simply a new form of an old friend.” *Id.*; see also *Welcoming Remarks by Commissioner Kevin Martin to the African VoIP Conference, Supercomm 2002, Atlanta, Georgia (June 5, 2002)*.

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<sup>3</sup> See Comments of the VON Coalition, *Petition for a Declaratory Ruling that AT&T’s Phone-to-Phone Internet Telephony Services are Exempt from Access Charges*, WC 02-361 (Dec. 18, 2002).

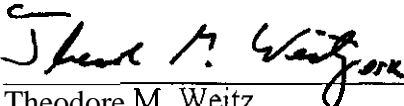
The reasons underlying the Commission's non-regulatory approach to VoIP and VON remain valid. VON remains a nascent industry. Premature intervention risks stifling the innovation and competition that are hallmarks of nascent industries, and is at odds with the statutory mandate of Section 230(b) to preserve the "vibrant and competitive free market" for the Internet. Continuation of the Commission's non-regulatory policy is also warranted by the complexities associated with defining individual voice offerings and drawing distinctions between the regulatory classifications of "telecommunications services" and "information services." Further, the non-regulatory model has significant international benefits, as other countries look to the United States for regulatory guidance. Invocation of this model has encouraged foreign regulators, even those with monopoly telecommunications markets, to take the first steps toward deregulation, thereby enabling overseas carriers to use existing infrastructure while saving costs and introducing a new technology to be used with future applications.

## **Conclusion**

Therefore, based on the foregoing, the VON Coalition recommends that the Commission grant the request of pulver.com and issue a declaratory ruling that Free World Dialup is neither telecommunications nor a telecommunications service,

Respectfully submitted,

**THE VON COALITION**

  
Theodore M. Weitz

The VON Coalition

Dated: March 14, 2003